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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,750	12/24/2003	Dragomir (Doug) Smoljo	063265-0001	8937
33797	7590	04/25/2006	EXAMINER	
MILLER THOMPSON, LLP Scotia Plaza 40 King Street West, Suite 5800 TORONTO, ON M5H 3S1 CANADA			CHIN SHUE, ALVIN C	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 04/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/743,750	SMOLJO, DRAGOMIR (DOUG)	
	Examiner	Art Unit	
	Alvin C. Chin-Shue	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 4,5,7-14 and 16-18 are objected to because of the following informalities: the above claims are replete with phrases lacking antecedent basis, e.g. "said connecting member", as set forth in claim 4, "said profile", as set forth in claim 5, said "bracket", as set forth in claim 7. It appears that the dependency of the above claims is incorrect if not appropriate antecedent basis should be provided. Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 15 states that only the enclosure system is being claimed while the positive limitations to the scaffold frame appears to be claiming a combination of the system and the scaffold frame, thus rendering the claim indefinite.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10,15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over German pat. '766 to Meier et al. in view of Rushford or Brooks. Meier shows the claimed system with the exception of his members 12 being connected to each other in an aligned manner. Rushford shows a plurality of slotted members 4 connected together in an aligned manner by a connecting member 10 to enable his slots to be aligned for securing an enclosure therein. Brooks shows a plurality of slotted members 21,22 connected together in an aligned manner by a connecting member to enable his slots to be aligned for securing an enclosure therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Meier for his members 12 to be connected together in an aligned manner, as taught by either Rushford or Brooks, to enable aligned slots for securing his enclosure means therein. The examiner takes official notice that the clamp jaw 4 (bracket), as set forth in claim 7, conventional comprises a notch for receiving his fastener, and to provide a notch therein would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the conventional teachings.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Saulters. Saulters shows a linking member B. It would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure means of Meier to comprise a linking member, as taught by Saulters, for joining sections of his tarp.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Mydans. Mydans shows a tarp with elastic portions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Meier with a tarp, as taught by Mydans, to facilitate a stretched fit of his tarp.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Saulters. Saulters shows a linking member B. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure means of Meier to comprise a linking member, as taught by Saulters, for joining sections of his tarp.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of Adolfson et al. Adolfson shows an insulated tarp. It would have been

obvious to one of ordinary skill in the art at the time the invention was made to provide Meier with a tarp, as taught by Adolfson, to insulate his system.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al and either Rushford or Brooks, as applied to claim 1 above, and further in view of either Dotson or Muir et al. Dotson and Muir show telescoping portions for adjusting distance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spacing portion 1 of Meier to be telescopic, as taught by either Dotson or Muir, to enable adjustment of the spacing between his frame and the stackable section members.

Claims 19 and 20 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/2/06.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS